

**DECLARATION OF TRUST FOR  
MARICOPA COUNTY, ARIZONA  
SELF-INSURED BENEFITS TRUST FUND**  
C-06-11-280-M-00

Pursuant to Arizona Revised Statutes § 11-981, this Declaration of Trust for Maricopa County, Arizona Self-Insured Benefits Trust Fund (the "Declaration of Benefits Trust" or "Benefits Trust"), dated and effective this 26th day of January, 2011 is adopted by Maricopa County, a political subdivision of the State of Arizona.

**RECITALS**

A. Arizona Revised Statutes ("A.R.S.") § 11-981 authorizes Maricopa County (the "County") to establish a self-insurance program for the management and administration of a system for direct payment of health, accident, life, or disability benefits, including mental health and substance abuse diagnosis and treatment, for employees and officers of the County, including dependents of employees and officers as outlined in this Declaration of Benefits Trust.

B. On or about July 1, 2008, the County established a self-insurance program for the management and administration of a system for direct payment of health, accident, life or disability benefits, which has been governed pursuant to the terms of the Revised Restated Declaration of Trust for Maricopa County, Arizona Self-Insured Trust Fund (the "Risk Trust"). Through this Declaration of Benefits Trust, the County desires to separate the governance of the Benefits Trust from the Risk Trust.

C. The County is authorized pursuant to A.R.S. § 11-981 to do each of the following things (collectively, the "Authorized Actions"):

1. Manage and administer a system for direct payment of health, accident, life, or disability benefits, including mental health and substance abuse diagnosis and treatment, for employees and officers of the County, including dependents of employees and officers.

2. Designate a risk management consultant or insurance administrator ("Administrator") licensed pursuant to Title 20, Chapter 2, Article 3 or 9, Arizona Revised Statutes, if such license is verified by the County Board of Supervisors.

3. Enter into contracts or agreements required for the management or administration of the Benefits Trust.

4. Establish terms and conditions of coverage, including setting rates and determining exclusions from coverage.

5. Ensure that all claims eligible for payment through the Benefits Trust are paid promptly.

6. Take all necessary precautions to safeguard the assets of the Benefits Trust Fund.

D. The County desires to establish this Benefits Trust to carry out the Authorized Actions.

## **Article 1. General Terms.**

1.1. Recitals. The Recitals set forth above are true and correct and incorporated herein.

1.2. Effective Date. This Benefits Trust shall become effective upon the completion of the Authorizing Action described in Section 1.5 below, and shall continue until this Benefits Trust is terminated by the County as described in Article 9 below.

1.3. Purpose. The purpose of this Declaration of Benefits Trust is to carry out the Authorized Actions. In furtherance of such purpose, the County and the Board of Trustees appointed pursuant to Sections 3.1 and 3.2, below, shall operate the Benefits Trust according to the terms and conditions set forth in this Declaration of Benefits Trust.

1.4. Conformity with Law. If any term or provision of this Declaration of Benefits Trust conflicts with or violates any state or federal law, as they now exist or are hereafter amended, this Declaration of Benefits Trust shall be automatically deemed amended to conform to such laws.

1.5. Authorizing Action. The Benefits Trust shall become effective only upon: (a) the determination of legal counsel for the Board of Supervisors that this Declaration of Benefits Trust is in proper form and within the powers and authority of the Board, and (b) the approval of the Board of Supervisors.

1.6. Reservation of Authority. Nothing contained herein shall modify or restrict the legal authority of the Board of Supervisors to administer and operate appropriate insurance programs for the County.

### 1.7. Definitions.

1.7.1. "Administrator" means the Benefits Trust Administrator appointed in accordance with the terms of this Benefits Trust. Any Administrator appointed hereunder must be licensed as required by Title 20, Chapter 2, Article 3 or 9, Arizona Revised Statutes, and such license shall be verified by the Board.

1.7.2. "Benefits Trust" means the Maricopa County, Arizona, Self-Insured Benefits Trust.

1.7.3. "Board" or "Board of Supervisors" means the Board of Supervisors as the governing body of Maricopa County, Arizona.

1.7.4. "Clerk" means the Clerk of the Board of Supervisors of Maricopa County, Arizona.

1.7.5. "County" means Maricopa County, Arizona.

1.7.6. "Expenditures" means all disbursements made from the Benefits Trust and authorized by the Trustees for the management and administration of a program of health and welfare benefits as authorized by A.R.S. § 11-981.

1.7.7. "Health and Welfare Benefits Program" means the Maricopa County self-insured health and welfare benefits program that provides for direct payment, or any combination of insurance and direct payment, for health, accident, life, or disability benefits, losses, or claims for County employees and officers and their dependents.

1.7.8. "Participant" means a County officer, employee, retiree, or their dependents, determined to be eligible to participate and who has elected to participate in the Health and Welfare Benefits Program, including an officer, employee, retiree, or their dependents, of a special district that is a party to an intergovernmental agreement with the County that provides for County benefits eligibility for such persons.

1.7.9. "Treasurer" means the Maricopa County Treasurer.

1.7.10. "Trustee" or "Trustees" means the original group of individuals appointed by the Board or its designee to administer the Benefits Trust, and their duly appointed successors.

1.8. The Benefits Trust shall not discriminate against any individual in any way on account of such individual's race, color, religion, sex, age, disability, or national origin.

1.9. All purchases of the Benefits Trust shall comply with the Maricopa County Procurement Code. The Benefits Trust shall work with the Materials Management Department to contract for purchases within the Director of Materials Management's authority. Payment for materials and services for which the Benefits Trust contracts shall be the exclusive obligation of the Benefits Trust.

1.10. This Declaration of Benefits Trust, including any schedules or exhibits attached hereto, shall constitute the entire Declaration of Benefits Trust and supersedes all other understandings, oral or written, related to the governance of the Benefits Trust Fund. This Declaration of Benefits Trust may be amended or modified only by the Board, with notice to and in consultation with the Board of Trustees.

## **Article 2. The Benefits Trust Fund.**

2.1. Benefits Trust Fund. The parties hereto acknowledge that the Benefits Trust Fund has been created, and that the assets of the Benefits Trust Fund are held by the Maricopa County Treasurer.

2.2. Purpose of Benefits Trust Fund. The Benefits Trust Fund shall be used for the purpose of administering, staffing, managing, and funding the Health and Welfare Benefits Program.

2.3. Manner of Financing. The Benefits Trust Fund may be funded by allocation of funds from general fund and non-general fund departments and special taxing districts, employee contributions, gifts, grants, by any special taxes levied to satisfy judgments, payment of claims or other involuntary indebtedness and by monies recovered from litigation, statutory liens, recovery from insurers, subrogation, salvage value of damaged property, and interest earned on the funds held by the Benefits Trust. Additionally, the Benefits Trust may be funded through other available financial techniques and methods permissible under state or federal law and authorized by the Board and the Trustees.

### **Article 3. The Board of Trustees.**

#### **3.1. Trustees, Number, Term of Office, Qualifications, and Compensation.**

3.1.1. The Benefits Trust shall be administered by no fewer than six (6) joint trustees, all of whom shall be citizens of the United States of America, residents of Maricopa County, Arizona, and at least 21 years of age. The Trustees shall be reasonably familiar with the subject matter of the appointment and shall be appointed as follows:

3.1.1.1. Five (5) members of the Board of Trustees shall be appointed by the members of the Board of Supervisors to serve four (4) year terms. Each district shall have one appointment. The individuals appointed by the Board members shall not be employees or elected officials of the County.

3.1.1.1.1. In the event that a Board member does not appoint an individual to serve as a Trustee within 30 days of the execution of this Benefits Trust, the County Manager shall appoint a person to fill the vacant Trustee position.

3.1.1.1.2. In the event that neither a Board member nor the County Manager appoints an individual to serve as a Trustee within 60 days of the execution of this Benefits Trust, the Administrator shall appoint a person to fill the vacant Trustee position.

3.1.1.2. The County Manager shall appoint one County employee to serve as a Trustee for an indefinite term.

3.1.1.3. The Trustees should have experience in at least one of the following areas: health care administration, benefits plan administration, health insurance administration, or financial analysis.

3.1.2. No person shall qualify as Trustee until he or she has received a written appointment pursuant to Section 3.1.1, which shall be lodged with the Clerk and records of the Benefits Trust.

3.1.3. Upon expiration of his or her term, any Trustee may be reappointed or continue to serve until his or her replacement is appointed.

3.1.4. Trustees shall not be entitled to receive compensation for their services as Trustees, except Trustees shall be entitled to reimbursement for any reasonable out-of-pocket cost and expenditures made by the Trustees in the performance of their duties as Trustees.

3.1.5. A Trustee may resign at any time by giving notice in writing to the remaining Trustees, the Board, and the County Manager. Such resignation shall take effect not later than 60 days from the date it is received.

3.1.6. Any Trustee may be removed with or without cause upon written notice delivered to the Trustee from the individual or body that appointed the Trustee.

3.1.7. The Trustees shall be bonded or insured. This requirement may be satisfied by the blanket performance bond or other coverage provided by the County.

3.1.8. The Trustees shall comply with the provisions of Title 38, Chapter 3, Article 8, Arizona Revised Statutes regarding conflict of interest of officers, employees, and relatives, as well as any other applicable law regarding conflict of interest.

3.1.9. The Trustees shall elect from their members a Chair. The Chair shall be elected by a majority of the Trustees administering the Benefits Trust.

3.1.10. The Chair of the Board of Trustees shall serve a two (2) year term as Chair. The Chair may resign as Chair before the expiration of the two (2) year term by giving written notice to the Trustees. Such resignation shall take effect not later than 60 days from the date received. The Chair may be removed as Chair upon a vote of the majority of the Trustees. A Trustee may be elected to successive terms as Chair.

### **3.2. Vacancy on the Board of Trustees.**

3.2.1. The resignation, incompetency, death, removal, or termination of any or all of the Trustees shall not terminate the Benefits Trust or affect its continuity.

3.2.2. During a vacancy, the remaining Trustee or Trustees may exercise the power of the Trustees hereunder.

3.2.3. Vacancies among the Trustees shall be filled by a written appointment and in the manner provided in Section 3.1.1 above.

3.2.4. If, at any time, by reason of resignation, removal, incompetency, or death, there shall be no remaining Trustees, the Board of Supervisors and County Manager shall forthwith appoint successor Trustees as provided in Section 3.1.1 above.

### 3.3. Meetings of the Board of Trustees.

3.3.1. The Trustees shall meet as frequently as they shall determine necessary and appropriate, but not less than quarterly. Meetings may be conducted by teleconference, video-conference, or by other electronic means of communication.

3.3.2. The Chairman may call a meeting at any time upon two (2) days' notice, either written or verbal. Any number of Trustees fewer than a quorum may call a meeting upon two (2) days' notice, either written or verbal, to the other Trustees.

3.3.3. The Chairman shall establish the date, time, and place of the meetings of the Trustees, and shall provide an agenda of subject matter to be covered during the meeting. All meetings shall take place in Maricopa County, Arizona and shall be subject to all applicable statutes, rules, and regulations pertaining to public meetings, including but not limited to the Arizona Open Meetings Law, Title 38, Chapter 3, Article 3.1, Arizona Revised Statutes.

3.3.4. The Trustees may act only during a formal meeting of the Trustees, except in case of an emergency, as determined by the Chairman or a majority of the Trustees, during which the Trustees may act without a meeting subject to ratification and confirmation of the act at the next meeting of the Trustees.

3.3.5. At all meetings of the Trustees, a majority of the Trustees then serving shall constitute a quorum for the transaction of business. The act of a majority of the Trustees present at any meeting at which there is a quorum shall be the act of all Trustees, except as may be otherwise specifically provided by statute. If a quorum is not present at any meeting of the Trustees, the Trustees present may recess the meeting from time to time until a quorum is present. At such resumed meeting at which a quorum is eventually present, any business may be transacted which might have been transacted at the meeting originally noticed, *provided that*, to the extent applicable, the requirements of the Arizona Open Meetings Law are met.

3.3.6. The Trustees shall maintain minutes of their meetings.

3.3.7. Any action by a majority of the Trustees in office shall be conclusive and binding as an action of the Board of Trustees. All agreements, checks, documents, reports, and any and all other instruments executed by a majority of the Trustees or executed by one Trustee or an authorized agent of the Benefits Trust,

pursuant to authorization of a majority of the Trustees given either at a meeting or in writing, shall be effective and binding as if executed by all of the Trustees.

#### **Article 4. Duties of the County.**

The County shall:

4.1. Deposit all monies received for the purpose of funding the Health and Welfare Benefits Program, including, but not limited to, contributions collected from Participants through payroll deductions and County contributions, into the Benefits Trust Fund for the purposes set forth in this Declaration of Benefits Trust.

4.2. Provide staff from its Department of Business Strategies and Health Care Programs, Office of Management and Budget, and such other departments of the County necessary to help the Trustees with the day-to-day operations of the Trust Fund.

4.3. Fill all vacancies of members of the Board of Trustees as required by this Declaration of Trust.

#### **Article 5. Powers and Duties of the Board of Trustees.**

The Board of Trustees shall:

5.1. Adopt policies, rules, and procedures to enable the Benefits Trust to do all such lawful acts and things permitted by this Declaration of Benefits Trust.

5.2. Use the monies deposited in the Benefits Trust Fund to administer, staff, manage, and fund the Health and Welfare Benefits Program for the Participants for any purpose permitted by law, including, without limitation, investment and payments (a) for losses or claims, (b) for insurance, (c) for risk management consultations related to health and welfare benefits or this Declaration of Benefits Trust, (d) for stop loss insurance, (e) on behalf of qualified Participants, (f) for vision and dental care, wellness programs and any similar or related health and welfare plans or programs that may be administered under the Benefits Trust.

5.3. Delegate in writing to the Administrator the power and authority to carry out the day-to-day administration of the Benefits Trust.

5.4. As long as required by law, maintain or cause the Trust Fund to be maintained by the Treasurer or such other financial institution as the Board may reasonably select, consistent with the requirements of this Declaration of Benefits Trust.

5.5. Cooperate with the Administrator in accordance with A.R.S. § 11-981.

5.6. Employ such other professionals as are necessary to accomplish the purposes of the Benefits Trust, including professionals to provide accounting and

auditing services, financial advisory services, health care claims services, investment services, legal services, and other advisory services.

5.7. Cause staff made available by the County's Finance Department to prepare the financial statement for the annual audit required by A.R.S. § 11-981 and provide to such staff all information necessary to prepare such statement in accordance with generally accepted accounting principles.

5.8. Assist the County and the external auditor retained pursuant to A.R.S. § 11-981 with the annual audit required by law (the "Annual Report").

5.9. Cause the Annual Report to be maintained in the offices of the Clerk for a period of not less than ten (10) years.

5.10. Review quarterly the Benefits Trust Fund to ensure sufficient funds exist to pay outstanding and future benefits, losses, or claims.

5.11. Consult with the Board of Supervisors, County Manager, and Administrator on financial and other issues relating to the Health and Welfare Benefits Program, including appropriate premiums and rates for Participants.

5.12. Comply with all applicable requirements of local, state, and federal law relating to county self-insurance programs for the management and administration of employee health and welfare benefits.

5.13. Return all assets in the Benefits Trust Fund to the County for deposit in its general fund upon dissolution of the Benefits Trust under Article 9 below.

5.14. Collect, hold, and maintain deposits from the County in the Benefits Trust Fund for the purposes set forth in this Declaration of Benefits Trust.

5.15. Receive additions to the assets of the Benefits Trust Fund.

5.16. Provide for the investment of Benefits Trust monies in a manner consistent with the provisions of Title 35, Chapter 2, Article 2.1, Arizona Revised Statutes.

5.17. Make arrangements for payment of eligible claims in a manner designated by the Administrator, including by wire or other transfer to the designated accounts of each health and welfare benefits administrator ("HWBA"), in accordance with this Declaration of Benefits Trust and any agreement between the County and the HWBA then in effect.

5.18. Pay taxes, assessments, reasonable insurance premiums, and reasonable administrative expenses of each HWBA and any other expenses incurred in the collection, care, administration, and protection of the assets of the Benefits Trust Fund.



5.19. Subject to the limitations set forth in schedule A, prosecute in the name of the County, defend, or compromise actions, claims, or proceedings for the protection of the assets of the Benefits Trust Fund and the exercise of the powers vested in the Trustees under this Declaration of Benefits Trust, including, but not limited to, actions for recovery of the cost of medical care and treatment pursuant to A.R.S. § 12-962 and other applicable law.

5.20. Execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the Board of Trustees under this Declaration of Benefits Trust.

5.21. In the event that the some or all of the assets of the Benefits Trust Fund are deposited with a financial institution other than the Treasurer, cause that financial institution to make available to the Board of Trustees on at least a monthly basis statements that identify all Benefits Trust Fund transactions made as of the date of the statement, including such supporting documentation or detail as the Board of Trustees or its authorized designee may reasonably request.

5.22. Designate appropriate personnel made available by the County, who are independent from those involved in paying claims submitted to the Benefits Trust, to review the statements described in Section 5.21 in a reasonable manner and otherwise comply with the oversight provisions set forth in the Sections 5.7-5.10 above.

5.23. Cause the Administrator or his or her designee to be provided with all reports, financial statements, and other information regarding the Benefits Trust Fund or any HWBA, as the Administrator or designee may reasonably request.

5.24. Cause a financial institution holding any of the Benefits Trust Fund assets to waive in writing any right of setoff against the assets of the Benefits Trust Fund.

5.25. Cause all other appropriate actions to be taken in connection with the Benefits Trust Fund and this Declaration of Benefits Trust that are necessary to carry out its obligations hereunder.

5.26. Conduct all activities, including delegation of any of its duties, solely in a manner consistent with its fiduciary responsibilities.

#### **Article 6. Standard of Care of Board of Trustees.**

In dealing with the assets of the Benefits Trust Fund, the Board of Trustees shall follow the prudent investor rule. The Trustees shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs. This standard of care shall apply to all matters involving the Benefits Trust, including investment and or the permanent disposition of funds, considering the probable income as well as the probable safety of the capital of the Benefits Trust.

## **Article 7. Powers and Duties of Administrator.**

7.1. The County Manager or the County Manager's designee shall appoint the Administrator of the Benefits Trust. The Administrator shall be in charge of and responsible for the operation of the Benefits Trust.

7.2. The Administrator shall develop and propose to the Board of Trustees for adoption policies, rules, and procedures to enable the Benefits Trust to do all such lawful acts and things permitted by this Declaration of Benefits Trust.

7.3. The Administrator shall establish adequate and appropriate reserves for the Benefits Trust's self-insured retention program. The reserves may include an allowance for claims incurred but not reported.

7.4. Any self-insured retention program established by the Administrator shall conform to the provisions of this Benefits Trust and applicable law to provide health, dental, long-term care, life, disability, or other welfare benefits, annuities, mental health and substance abuse diagnosis, counseling, and treatment for Participants.

7.5. The Board directs and authorizes the Administrator to establish a program for disbursements to be made for the benefit of and on behalf of the County, which program will approve for payment of any and all reasonable expenditures necessary to establish and administer the Benefits Trust, including but not limited to:

7.5.1. Pay all reasonable costs and expenses of Benefits Trust administration.

7.5.2. Pay all reasonable legal fees, expenses, and costs incurred in connection with administration of the Benefits Trust.

7.5.3 Pay all reasonable insurance premiums for the fully-insured welfare benefits provided under the Health and Welfare Benefits Program.

7.5.4. Pay all reasonable actuary, consultant, audit, and insurance broker's fees, expenses, and costs incurred in connection with the administration of the Benefits Trust.

7.5.5. Pay such other reasonable and appropriate expenses, including third-party administration fees, as may be necessary in connection with the administration of the Benefits Trust.

7.6. Subject to the limitations set forth in schedule A, the Administrator may prosecute in the name of the County, defend, or compromise actions, claims, or proceedings for the protection of the assets of the Benefits Trust Fund and the exercise of the powers vested in the Administrator under this Declaration of Benefits Trust,

including, but not limited to, actions for recovery of the cost of medical care and treatment pursuant to A.R.S. § 12-962 and other applicable law.

## **Article 8. Stop-Loss Insurance and Indemnification.**

8.1. Stop-Loss Insurance. For each County self-insured liability covered by this Benefits Trust, the stop loss terms and amount shall be determined by the Administrator and approved by the Board annually.

### **8.2. Non-Liability and Indemnification of Trustees and Administrator.**

8.2.1. Non-Liability. Except as otherwise provided by law, the Administrator and Trustees shall not be liable individually for any act or omission of the Administrator, any Trustee, agent, or representative of the Benefits Trust, nor shall the Administrator or any Trustee be liable individually for negligence, error in judgment, or any act or omission, except as set forth below.

8.2.1.1. Trustees. Every act or thing done or omitted, and any power exercised or obligation incurred by the Trustees, or any of them, in the administration of the Benefits Trust, or in connection with any business or property of the Benefits Trust, in their Trustee capacity, shall be deemed to be done, omitted, exercised, or incurred by the Trustees, as Trustees and not as individuals. Upon any debt, claim, demand, judgment, decree, or obligation of any nature whatsoever against or incurred by the Trustees in their capacity as Trustees, whether founded upon contract or tort, recourse shall be solely to the property of the Benefits Trust.

8.2.1.2. Administrator. Every act or thing done or omitted, and any power exercised or obligation incurred by the Administrator in the administration of the Benefits Trust, or in connection with any business or property of the Benefits Trust, in his or her capacity as Administrator, shall be deemed to be done, omitted, exercised, or incurred by the Administrator acting under the powers and duties of the Administrator under the provisions of this Declaration of Benefits Trust. Upon any debt, claim, demand, judgment, decree, or obligation of any nature whatsoever against or incurred by the Administrator in his or capacity as such, whether founded upon contract or tort, recourse shall be solely to the property of the Benefits Trust.

8.2.1.3. Exclusion. Nothing contained in this Benefits Trust shall protect the Administrator, a Trustee, agent or representative of the Benefits Trust against liability to the Benefits Trust, or to the beneficiaries thereof, for gross negligence, bad faith, and/or willful or wanton misconduct in the conduct of his or her duties.

8.2.2. Indemnification. The Benefits Trust shall indemnify, defend, and hold harmless each Trustee and the Administrator from and against all claims and liabilities, whether they proceed to judgment or are settled, to which such Trustee or Administrator may become subject, by reason of his or her being or having been a

Trustee or Administrator, or by reason of any action alleged to have been taken or omitted by him or her, as Trustee or Administrator.

8.2.2.1. Reimbursement of Expenses. The Benefits Trust shall reimburse the Trustee or Administrator for all legal and other expenses that the Trustee or Administrator reasonably incurred in connection with any such claim or liability.

8.2.2.2. Exclusion. No Trustee or Administrator shall be indemnified or reimbursed under the foregoing provisions in relation to any matter, if the Trustee's or Administrator's action or omission constituted bad faith, gross negligence, and/or willful and wanton misconduct in the conduct of the Trustee's or Administrator's duties. This exclusion applies if a court of competent jurisdiction has ruled that the Trustee or Administrator acted in bad faith, with gross negligence, and/or willful and wanton misconduct. In the absence of such a ruling, this exclusion applies if the Benefits Trust shall have received a written opinion from an attorney representing the County to the effect that if the matter of bad faith, gross negligence, and/or willful and wanton misconduct in the conduct of duties had been adjudicated, it would have been adjudicated against such Trustee or Administrator.

8.2.2.3. Non-Exclusivity. The rights accruing to a Trustee or Administrator under these provisions shall not exclude any other right to which the Trustee or Administrator may lawfully be entitled, nor shall this provision restrict the right of the Benefits Trust to indemnify or reimburse such Trustee or Administrator in any proper case, even though not specifically provided for herein; *provided* that no Trustee or Administrator may satisfy any right of indemnity or reimbursement granted herein, or to which he or she may be otherwise entitled, except as provided by law.

## **Article 9. Dissolution and Termination**

In accordance with A.R.S. § 11-981, if the County determines that it will no longer provide the Health and Welfare Benefits Program, any other fully self-insured or direct-pay health care plan for Participants, or a trust is no longer required by law for such plans, the County may dissolve the Benefits Trust Fund and terminate this Declaration of Benefits Trust after payment of all valid outstanding liabilities or obligations. Upon notice of such dissolution and termination, the Board of Trustees shall cause any remaining funds in the Benefits Trust Fund to be transferred to the County for deposit in its general fund.

## **Article 10. Miscellaneous**

10.1. Disclaimer of Third Party Beneficiaries. Nothing in this Declaration of Benefits Trust is intended to confer the status of third-party beneficiary on any person or entity.

10.2. Waiver. No waiver of any of the provisions of this Declaration of Benefits Trust by the Board of Trustees or the County shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. No

waiver by the Board of Trustees or the County of any provision of this Benefits Trust shall be binding unless executed in writing by the Trustees or the County, as appropriate.

10.3. Further Assurances. The Board of Trustees and the County agree in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Declaration of Benefits Trust.

10.4. Amendments. The Board of Trustees and the County may amend this Declaration of Benefits Trust at any time; *provided* that, such amendment must be in writing and otherwise comply with applicable law.

10.5. Counterparts. This Declaration of Benefits Trust may be executed in several counterparts, all of which together shall be considered an original.

10.6. Governing Law. This Declaration of Benefits Trust shall be governed by and construed in accordance with the laws of the State of Arizona.

10.7. Conflicts. In the event of a conflict among the terms of this Declaration of Benefits Trust and A.R.S. § 11-981, the statute shall control.

APPROVED and ACCEPTED by:

MARICOPA COUNTY, STATE OF ARIZONA

By  FEB 01 2011  
Chairman, Board of Supervisors

ATTEST:

  
Clerk of the Board 012011

## LEGAL COUNSEL DETERMINATION

Counsel has reviewed this Declaration of Benefits Trust and has determined that it is in proper form and is within the powers, authority, and discretion granted to the County and the Board of Supervisors under the laws of the State of Arizona.

DATED this 26th day of January, 2011.

A handwritten signature in blue ink, reading "Karen J. Hart Tolley", is written over a horizontal line.

## **SCHEDULE A**

### **Settlement Authority**

1. **Administrator.** With express authorization from the Board of Supervisors, the Administrator may prosecute actions for reimbursement of the cost of medical care and treatment. The Board delegates to the Administrator the authority to compromise demands or claims for reimbursement of the cost of medical care and treatment when the settlement amount is up to \$50,000 less than the amount that the County has demanded in reimbursement.

2. **Board of Trustees.**

A. **Compromise of Claims Against the County.** The Board of Supervisors delegates to the Trustees the authority to compromise actions, claims or proceedings against the County for the protection of the assets of the Benefits Trust Fund. The Trustees shall have settlement authority up to \$100,000.

B. **Reimbursement Claims.** The Board delegates to the Trustees the authority to compromise demands or claims for reimbursement of the cost of medical care and treatment when the settlement amount is between \$50,001 and \$100,000 less than the amount that the County has demanded in reimbursement.

3. **Board of Supervisors.** The Board of Supervisors must approve all settlements of actions, claims or proceedings for the protection of the assets of the Benefits Trust Fund, including claims for reimbursement of the cost of medical care and treatment, that are not within the authority granted to the Administrator and the Trustees above.